

AO 108 (Rev. 06/09) Application for a Warrant to Seize Property Subject to Forfeiture

UNITED STATES DISTRICT COURT

for the

District of New Mexico

FILEDUNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO

JAN - 4 2023

In the Matter of the Seizure of)

(Briefly describe the property to be seized))

31 BOXES OF SOLAR PANELS IN THE)
POSSESSION OF P4Q USA INC., LOCATED AT)
8330 JEFFERSON ST NE ALBUQUERQUE, NM)

Case No.

23-32 MR

MITCHELL R. ELFERS
CLERK OF COURT**APPLICATION FOR A WARRANT
TO SEIZE PROPERTY SUBJECT TO FORFEITURE**

I, a federal law enforcement officer or attorney for the government, request a seizure warrant and state under penalty of perjury that I have reason to believe that the following property in the _____ District of

New Mexico is subject to forfeiture to the United States of America under _____ 19 _____ U.S.C. §

1595 (describe the property):

31 BOXES OF SOLAR PANELS IN THE POSSESSION OF P4Q USA INC., LOCATED AT 8330 JEFFERSON ST NE ALBUQUERQUE, NM 87113

The application is based on these facts:

See attached affidavit, attached and incorporated herein by reference.

☒ Continued on the attached sheet.
Applicant's signature

Kevin Rinehart, Special Agent - HSI

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephonically sworn and electronically signed.

Date: 01/04/2023


Judge's signature

City and state: Las Cruces, NM

Gregory J. Fouratt, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEIZURE OF:
**31 BOXES OF SOLAR PANELS IN THE
POSSESSION OF P4Q USA INC.,
LOCATED AT 8330 JEFFERSON ST NE
ALBUQUERQUE, NM 87113**

Case No. 23-32 mr

**AFFIDAVIT IN SUPPORT OF AN
APPLICATION FOR A SEIZURE WARRANT**

I, Kevin Rinehart, being first duly sworn, hereby depose and state as follows:

AGENT BACKGROUND

1. I am employed a Special Agent with the Department of Homeland Security, Immigration and Customs Enforcement, Homeland Security Investigations (HSI), Albuquerque, New Mexico and have been employed in this position since September 2018. I am an investigative law enforcement officer of the United States, and I am empowered by law to conduct investigations and make arrests for felony offenses. I successfully completed twelve weeks of Criminal Investigator Training Program, and the Homeland Security Investigations Special Agent Training at the Federal Law Enforcement Training Center in Brunswick, Georgia. I am also a graduate of the South Carolina Criminal Justice Academy Basic Law Enforcement Training Program (BLE 549). I hold a Bachelor's Degree *cum laude* in History from Marietta College.

2. I am authorized to investigate violations of Titles 18 and 19 of the United States Code and am designated as a customs officer under Title 19 with full authorities to investigate and enforce the customs laws and regulations of the United States.

PROPERTY FOR SEIZURE

3. I make this affidavit in support of an Application and Warrant to seize 31 BOXES OF SOLAR PANELS model numbers SLP030-24 and SLP060-24 (hereinafter Solar Panels), currently in the possession of P4Q USA Inc., and located at their offsite storage at SupplyOne Albuquerque at 8330 Jefferson St NE Albuquerque, NM 87113.

AUTHORITY TO SEIZE

4. The statements made in this affidavit are based upon information I gained from the investigation, personal observations, training and experience, as well as from information relayed to me by other individuals, including law enforcement officers. Since this affidavit is being submitted for the limited purpose of securing a seizure warrant, I have not included each and every fact known to me concerning this investigation.

5. Based on my training, experience, and the information contained in the subsequent paragraphs, the Solar Panels, are subject to seizure and forfeiture to the United States pursuant to Title 19, United States Code, Section 1595a(c)(1)(A) because the Solar Panels were clandestinely imported into the United States in that they were falsely labeled to conceal the Solar Panels true country of origin. Here, the Solar Panels' true country of origin is China, however, the Solar Panels were labeled as having originated from Vietnam, presumably to avoid having to pay import tax. "Merchandise which is introduced or attempted to be introduced into

the United States contrary to law...shall be seized and forfeited if it is stolen, smuggled, or clandestinely imported or introduced.” *Id.*

6. Additionally, the Solar Panels may be seized and forfeited to the United States pursuant to Title 19, United States Code, Section 1595a(c)(2)(E) because the Solar Panels are marked intentionally in violation of Title 19, United States Code, Section 1304. Section 1304(a) reads that “...every article of foreign origin (or its container as provided in subsection (b) hereof) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article.

7. The manner in which the solar panels were introduced into the commerce of the United States by false declaration of country of origin to avoid elevated duty fees and are in violation of three separate federal statutes: (1) 18 U.S.C. § 541, Entry of goods falsely classified, (2) 18 U.S.C § 542, Entry of goods by means of false statements, and (3) 18 U.S.C § 545, Smuggling goods into the United States with intent to defraud the United States Government of lawful duties owed.

PROBABLE CAUSE

8. In June 2022, Special Agents assigned to HSI El Paso responded to the Santa Teresa International Port of Entry located in southern New Mexico to assist U.S. Customs and Border Protection (CBP) officers with an inspection of solar panels imported into the United States. This inspection discovered that the Solar Panels were labeled with a counterfeit trademark for Intertek Electrical Testing Laboratories in violation of United States Code. The inspection of the

counterfeit labels revealed a misspelling of the word “certified,” instead, stating that the panels were “certfed.” The labels also proclaimed the Solar Panels were “Made in Vietnam,” matching the import declaration made by the importer, New Home Materials, Inc., the company name Solarland USA employs for importation declarations. According to the importation declaration filed with CBP, the Solar Panels were imported by New Home Materials, Inc., 5901 Office Blvd NE, Albuquerque, NM. Records checks have shown the import history involving New Home Materials, Inc. have consistently claimed Vietnam as the country of origin, however based on the information provided below these were false declarations of country of origin in part to likely avoid elevated duty rates for Chinese solar panels.

9. HSI El Paso requested the assistance of HSI Albuquerque, and in October 2022, another agent and I responded to the 5901 Office Blvd NE address. We did not locate a New Home Materials Inc. at the location, but we did speak to employees at P4Q USA, Inc. at the address. Employees at P4Q were able to confirm that they order and install off-grid solar panels on their proprietary “Suntracker” solar panel arrays, and had placed a large order of 30-watt and 60-watt solar panels to complete ongoing projects they have scheduled in the United States.

10. An accounts manager at P4Q stated P4Q contracts with Solarland USA to provide approximately 30,000 solar panels that meet Underwriters’ Laboratories (UL) and Canadian Standard Association (CSA) safety ratings. UL and CSA are international safety testing and certification companies. The accounts manager further stated all conversations and indications from Solarland USA were that Solarland USA were importing Chinese solar panels to meet the contracted order from P4Q, and there was never a mention of a Vietnamese origin until P4Q employees unboxed the Solar Panels at their warehouse and observed the “Made in Vietnam” label.

11. P4Q agreed to let me inspect the Solar Panels located at their offsite storage located at 8330 Jefferson St NE, Albuquerque, NM. I observed and confirmed with P4Q employees they were in possession of a total 31 boxes of the Solar Panels from a prior shipment. P4Q's account manager agreed to share documents and e-mails between Solarland USA and P4Q's employees relating to the purchase of the Solar Panels.

12. I received multiple historical e-mails from the P4Q accounts manager, including several that indicated the Solar Panels did not originate in Vietnam as claimed on official importation documents, but rather, originated in China and likely transshipped through Vietnam to avoid duties imposed on Chinese solar panels. An email, dated February 25, 2022, revealed that the Senior Sales Representative for Solarland USA emailed an employee at P4Q a Certificate of Origin as proof that the Solar Panels were manufactured in China.

13. Additional documents sent by Solarland USA to P4Q further outline the Solar Panels originated in China. A document from CSA, dated August 22, 2022, lists the model numbers associated with the Solar Panels and further reads that the manufacturer of the products tested is "AVERY (CHINA) CO., LTD." With an alternative manufacturer as "WUHU KUANER NEW MATERIAL TECHNOLOGY CO LTD." Open-source internet searches reveal that Wuhu Kauner is a Chinese based solar panel manufacturer.

14. A document titled "Certification Report" from the Solarland Senior Sales Representative to P4Q appears to be a certificate of compliance from CSA certifying the testing completed on the Solar Panels. On page three of the document under the title, "Product Certification History," all of the parts of the Solar Panels are listed as manufactured in China, including the solar cell, which was listed as manufactured by TW Solar (Hefei) Co., in China.

15. An additional attachment to an e-mail from the Solarland Senior Sales Representative to P4Q employees is a quote from CSA for the cost of the safety testing of the Solar Panels. The contact person for the manufacture of the Solar Panels is listed as a Zongliang Ruan with a contact e-mail address of “rzl@solarland.cn”. An e-mail suffix of “.cn” indicates a country domain origin in China.

16. Within an e-mail string titled “Bussiness License” (sic) between the Solarland Senior Sales Representative and P4Q, there is an e-mail dated May 2, 2022, from the Solarland Senior Sales Representative that reads that the manufacturing factory was closed for Labor Day celebrations and would not open until May 5 due to the extended holiday. These dates coincide with the five-day long Labor Day celebrations in the People's Republic of China beginning May 1 and ending May 5. Vietnam also celebrates Labor Day on May 1; however Vietnam’s holiday celebration only encompasses the first of May and does not extend further.

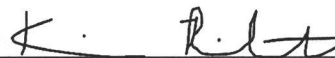
17. In an e-mail string titled “Draft 80093903 – Solarland,” the Solarland Senior Sales Representative again explains to P4Q that he is unable to contact anyone at the factory due to its closure for Chinese New Year. While both Vietnam and China celebrate a lunar calendar New Year, it is unlikely that a Vietnamese factory would close to celebrate Chinese New Year.

CONCLUSION

18. I submit that this affidavit supports probable cause for a warrant to seize the Solar Panels under the statutory authority of Title 19, United States Code, Section 1595a(c)(1): merchandise which is introduced or attempted to be introduced into the United States contrary to law and Title 19, United States Code, Section 1595a(c)(2)(e) merchandise improperly marked.

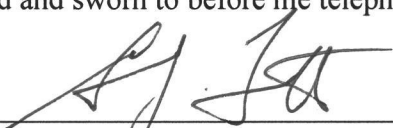
19. This affidavit was approved by AUSA Mark Saltman.

Respectfully submitted,



Kevin Rinehart
Special Agent
Homeland Security Investigations

Subscribed and sworn to before me telephonically, on January 4th, 2023.



GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE